

Amendment and Response

Serial No.: 10/781,568

Confirmation No.: 9297

Filed: February 18, 2004

For: OCCLUSION RESISTANT HYDROCEPHALIC SHUNT

Page 16 of 19

Remarks

The Office Action mailed January 23, 2007 has been received and reviewed.

Claims 1, 18, 32, and 50 having been amended, claims 14, 15, 29, 46, 47, 64, and 65 having been canceled, without prejudice, the pending claims are claims 1-13, 16-28, 30-45, 48-63, 66, and 67. Reconsideration and withdrawal of the rejections are respectfully requested.

Amendments to the claims

Claims 1, 18, 32, and 50 have been amended to recite particular agent delivery devices. The amendments are fully supported by Applicants' disclosure. Spherical agent delivery devices are described, for example, from page 10, line 29 through page 11, line 12 and Figure 3. Insert agent delivery devices are described, for example, from page 11, line 22 through page 12, line 14 and in Figures 6 and 7. Eluting plug agent delivery devices are described, for example, from page 11, line 22 through page 12, line 26 and in Figures 7 and 8. Seed agent delivery devices are described, for example, from page 12, line 30 through page 13, line 5 and in Figure 11. Elongated member agent delivery devices are described, for example, at page 11, lines 9-12 and in Figure 4.

No new matter is introduced by the amendments.

The 35 U.S.C. § 103 Rejections**Tweden in view of Baudino**

The Examiner rejected claims 1, 3, 6, 7, 11-18, 20, 23, 24, 28-32, 34, 37, 38, 42-50, 52, 55, 56, 60-67 under 35 U.S.C. §103(a) as being unpatentable over Tweden (U.S. Patent No. 7,008,397) in view of Baudino (U.S. Patent No. 6,110,155). Of the rejected claims, claims 1, 18, 32, and 50 are independent.

Amendment and Response

Page 17 of 19

Serial No.: 10/781,568

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Applicants submit that the claims, as amended herein, are patentable over the combination of Tweden in view of Baudino because the documents, when combined, fail to teach or suggest all of the features recited in the claims.

Claims 1, 18, 32, and 50 have been amended to recite one or more occlusion-resistant materials distributed in one or more agent delivery devices selected from the group consisting of spheres, inserts, eluting plugs, seeds, elongated members and combinations thereof. Applicants submit that the combination of Tweden in view of Baudino fails to teach or suggest agent delivery devices selected from the group consisting of spheres, inserts, eluting plugs, seeds, elongated members and combinations thereof.

Each of claims 3, 6, 7, 11-13, 16, and 17 depends, directly or indirectly, from claim 1; each of claims 20, 23, 24, 28, 30, and 31 depends, directly or indirectly, from claim 18; each of claims 34, 37, 38, 42-45, 48, and 49 depends, directly or indirectly, from claim 32; and each of claims 52, 55, 56, 60-63, 66, and 67 depends, directly or indirectly, from claim 50. Each is, therefore, patentable for at least all of the reasons that its independent claim is patentable.

Therefore, Applicants submit that claims 1, 3, 6, 7, 11-13, 16-18, 20, 23, 24, 28, 30-32, 34, 37, 38, 42-45, 48-50, 52, 55, 56, 60-63, 66, and 67 are patentable under 35 U.S.C. §103(a) over Tweden in view of Baudino.

Kraus in view of Baudino

The Examiner rejected claims 2, 4, 5, 19, 21, 22, 33, 35, 36, 51, 53, and 54 under 35 U.S.C. §103(a) as being unpatentable over Kraus (U.S. Patent No. 5,925,182) in view of Baudino (U.S. Patent No. 6,110,155).

Each of the rejected claims depends, directly or indirectly, from one of the amended independent claims. Applicants submit the claims are patentable over the combination of Kraus in view of Baudino because the documents, when combined, fail to teach or suggest all of the features recited in the claims. The combination of Kraus in view of Baudino fails to teach or suggest occlusion-resistant materials distributed in one or more agent delivery devices selected

Amendment and Response

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Confirmation No.: 9297

Filed: February 18, 2004

For: OCCLUSION RESISTANT HYDROCEPHALIC SHUNT

Page 18 of 19

from the group consisting of spheres, inserts, eluting plugs, seeds, elongated members and combinations thereof. Thus, the combination of Kraus in view of Baudino fails to set forth each and every element of the claims and, therefore, fails to set forth a *prima facie* case of obviousness.

Applicants submit that claims 2, 4, 5, 19, 21, 22, 33, 35, 36, 51, 53, and 54 are patentable under 35 U.S.C. §103(a) over the combination of Kraus in view of Baudino.

Tweden in view of Baudino, further in view of Hunter et al.

The Examiner rejected claims 8-10, 25-27, 39-41, and 57-59 under 35 U.S.C. §103(a) as being unpatentable over Tweden (U.S. Patent No. 7,008,397) in view of Baudino (U.S. Patent No. 6,110,155), further in view of Hunter et al. (U.S. 2005/0208095 A1).

Each of the rejected claims depends, directly or indirectly, from one of the amended independent claims. The deficiencies of the combination of Tweden in view of Baudino are described in detail above. Hunter et al. fails to cure the deficiencies of Tweden in view of Baudino. Thus, the combination of Tweden in view of Baudino, further in view of Hunter et al., fails to set forth each and every element of the claims and, therefore, fails to set forth a *prima facie* case of obviousness.

Applicants submit that claims 8-10, 25-27, 39-41, and 57-59 are patentable under 35 U.S.C. §103(a) over Tweden in view of Baudino, further in view of Hunter et al.

Therefore, Applicants submit that claims 1-13, 16-28, 30-45, 48-63, 66, and 67 are patentable under 35 U.S.C. § 103.

Amendment and Response

Page 19 of 19

Serial No.: 10/781,568

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Summary

It is respectfully submitted that all the pending claims are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted for,

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